

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

FRIDAY, THE 28TH SEPTEMBER 2007 / 6TH ASWINA 1929

WP(C).No. 24267 of 2007(L)

PETITIONERS:

1. R.RAGINI, W/O RAGHUNATHAN,
RAHUL BHAVAN, ICHADIVILA,
PAZHUNJIKUNJI, PERUMPAZHUTHOOR P.O.,
NEYYATTINKARA.
2. C.T.VIMALA BAI,
S.M.COTTAGE, ELAVAMIKKARA,
VELIYANCODE P.O.

BY ADV. SRI.G.SUDHEER

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT,
HEALTH DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.
2. DIRECTOR OF HEALTH SERVICE,
DIRECTORATE OF HEALTH SERVICES,
THIRUVANANTHAPURAM.
3. DISTRICT MEDICAL OFFICER,(HEALTH),
THIRUVANANTHAPURAM DISTRICT.
4. SUPERINTENDENT,
NEYYATTINKARA TALUK HOSPITAL,
NEYYATTINKARA.
5. KUMARI SHEELA,
ALUNINNA PUTHEN VEEDU,
MANALUR, NEYYATTINKARA.
6. SUMANGALA DEVI S.,
REVATHI SADANAM MULLANVILA,
PERUMPZHUTHOOR P.O., NEYYATTINKARA.

R1 TO R4 BY GOVERNMENT PLEADER SRI.BEJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN HEARD ALONG
WITH W.P.(C)NO.27160 & 27497 OF 2007 ON 28/09/2007, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI, J.

**W.P.(C).No.24267, 27160 &
27497 of 2007**

Dated this the 28th day of September, 2007.

JUDGMENT

The issue, raised in all these writ petitions, relates to the appointment of Cleaning Staff in the Taluk Headquarters Hospital, Neyyattinkara and Primary Health Centre, Neduvathoor.

2. The petitioners in W.P.(C)No.24267/07 are unemployed youth and residing within the Neyyattinkara Municipality. According to them, they have been working as Volunteers "Mahila Swasth Sangh" ('**MSS**' for short) . The volunteers of MSS made themselves available as Cleaning Staff without any remuneration as such. According to the petitioners in W.P.(C)No.24267/07, ad hoc appointments of Cleaning Staff are being made without any discipline. Learned counsel for the petitioners in W.P.(C) No.24267/07 contends that this court had, in Ext.P4 judgment, directed that all recruitment of Cleaning Staff on daily wages basis and other para-medical staff, pending regular recruitment, shall be done only from the Employment Exchange. Paragraph 4 of Ext.P4 judgment is extracted hereunder:

**"Having regard to the complaints raised, it is directed
that all recruitment of cleaning staff on daily wages**

basis and other para medical staff pending regular recruitment in terms of the Special Rules shall be done only from the Employment Exchange, unless hands are not available from the list maintained by the Employment Exchange. It is also clarified that any such engagement on daily wages or appointment on temporary basis shall not confer right on any such person so engaged or appointed for regularisation. The Government shall ensure that such a clause shall be added when any such person is engaged.”

3. The petitioners also refer to Ext.P5 order, whereby there was an interdiction against the appointment of Cleaning Staff on daily wages, otherwise than from the Seniority list of MSS workers as on 1.1.2001. Apparently, both these were ignored and Ext.P7 order was issued by the Superintendent of Neyyattinkara Taluk Hospital appointing certain persons on a provisional basis. The petitioners pray that appropriate directions be issued to see that Ext.P4 is implemented. The petitioners in W.P.(C)No.27160/07 are MSS workers registered with the Primary Health Centre, Neduvathoor. They claim that Ext.P2 circular issued by the Director of Health Services giving preference to MSS workers may be adopted and implemented.

4. The petitioner in W.P.(C)No.27497/07 is the Chairperson of the Neyyattinkara Municipality, who is essentially

interested in seeing that there is no dearth of Cleaning Staff in the hospitals at Neyyattinkara.

5. Learned Government Pleader submits, on instructions, that a decision has been taken by the Directorate of Health Services to see that Cleaning Staff are appointed promptly, from among those persons, who are sponsored by the Employment Exchange, on a provisional basis, pending regular recruitment. This decision is pursuant to the direction contained in Ext.P4 judgment marked in W.P.(C)No.24267/07. This submission is recorded.

6. Since the issues raised in these writ petitions are of general importance and have application in most of the Taluk Headquarters Hospitals and Primary Health Centres all over the State, the following directions are issued in consonance with the directions already issued by this court in the judgment marked as Ext.P4 in W.P.(C)No.24267/07 viz., W.P.(C)No.4183/07.

- (i) The Director of Health Services and the Superintendents of Taluk Headquarters Hospitals as also the Primary Health Centres, will take steps to see that there is no dearth of Cleaning Staff in anyone of these

hospitals. In making appointments on a provisional basis pending regular recruitment, only candidates sponsored by the Employment Exchange should be normally appointed.

(ii) If persons sponsored by the Employment Exchange are not available, in adequate numbers, then volunteers from the MSS shall be engaged.

(iii) It may be made clear by the Directorate of Health Services as also the other officers, who are in administrative control of the Taluk Headquarters Hospitals as well as Primary Health Centres, that recruitment of Cleaning Staff either from among persons who are sponsored by the Employment Exchange or if such persons are not available, MSS volunteers shall be appointed on a purely provisional basis, without conferring on them any right other than to receive the wages that are due and applicable.

7. It is further made clear that persons who are appointed in the manner indicated above will not be entitled to get regularization and this aspect shall be made clear in all the proceedings that are issued either from the Directorate of Health

W.P.(C).No.24267/07 & Con.case

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Services or from the Superintendents of the Taluk Headquarters
Hospitals and the Primary Health Centres.

With the above directions, the writ petitions are disposed
of.

Sd/-
(V.GIRI)
JUDGE

sk/

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